

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PAUL KURLANSKY, HELAINE KURLANSKY,
MARTIN EPSTEIN, HERBERT ENNIS, JUDITH
ENNIS, MORDECAI APPLETON, HENRY KATZ,
LILA KATZ, JOAN KATZ, GLENN KATZ, and
JUDITH SINGER,

Plaintiffs,

-against-

1530 OWNERS CORP.; MOE MARSHALL,
ELLEN GERBER, KENNETH LIPKE, CAROL
LICHTBRAUN, JUSTIN WIMPFHEIMER,
PATRICIA DI CONSTANZO, and MARK
O'NEILL, Individually and as Members of the Board
of Directors of 1530 Owners Corp., and;
FIRSTSERVICE RESIDENTIAL,
Defendants.

**DECLARATION OF HENRY KATZ PURSUANT TO 28 U.S.C. § 1746
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Henry Katz, hereby declare under penalty of perjury:

1. I am a plaintiff in the above-captioned proceeding and I am a resident of the Colony in Fort Lee, New Jersey, where I have been living with my wife, Ms. Lila Katz, since 2005. Ms. Katz and I reside in the Colony's North Tower in apartment 3E. I am familiar with the fact that the Colony's service elevators are equipped with a Sabbath mode that allows the elevators to be pre-programmed to stop at certain floors, obviating the need for any button pushing. The Colony's Sabbath elevator program was approved by a majority of the Colony's shareholders on May 19, 2019, but was then terminated by the Colony's board of directors. During the period of time in which the Sabbath elevator was operational, I used it regularly. I am also familiar with the Colony's longstanding practice of, in the absence of a Sabbath Elevator, assisting observant Jewish residents with the elevators on the Sabbath and certain

Jewish holidays by pressing buttons for the residents—a service that I and my wife likewise utilized, but which has now also been scuttled. As such, I am familiar with the facts and circumstances set forth herein. I submit this Declaration in support of Plaintiffs’ Application for Preliminary Injunction.

2. As an observant Jew, my religious beliefs are informed by thousands of years of Jewish tradition. Part of my strongly-held religious beliefs is the primacy of *halakha*, or the Jewish legal system, which establishes a framework for my entire life. A second core element of my beliefs is *kehillah*, or community, and the importance of joining together with members of my community to pray, study, and worship, to mourn at sad times and to celebrate in times of joy.

3. A core part of my adherence to Jewish law is my observance of the Sabbath, the Jewish day of rest, which spans from Friday evening until Saturday night. On the Sabbath, and certain Jewish holidays, many observant Jews refrain from certain activities, including the use of electronic and certain mechanical devices. For example, many observant Jews, including myself, do not press elevator buttons on the Sabbath and certain Jewish holidays. Doing so would violate my sincerely held religious beliefs.

4. I am 81 years old and suffer from atrial fibrillation and my doctor has instructed me to avoid strenuous activity. I have had two heart attacks, and I have a stent and a built-in defibrillator. I have also had several blood clots in my leg which require me to wear compression stockings to reduce swelling in my legs. I require an elevator to get to my 3rd floor apartment as I run out of breath from going up stairs. Unfortunately, I have fallen several times.

5. My wife, aged 80, also suffers from congestive heart failure, cirrhosis of the liver, and has a low plate count. She can neither descend nor ascend stairs and must use the elevator to

come and go from our apartment. Because of the cancellation of the Sabbath elevator, my wife has not been to synagogue since Yom Kippur eight months ago. Without the use of a Sabbath elevator, she remains homebound each Sabbath and holiday.

6. Around five years ago, when our health began to deteriorate, until the Sabbath elevator began to operate, we relied on the building staff to push the elevator buttons on the Sabbath. This allowed us to almost freely come and go during the Sabbath. We were always assisted in going up to our apartment from the ground floor by any number of staff in the vicinity and to get down. Fortunately, I am well enough to walk down still, but others would pre-arrange a time with building staff to help us down. This provided us with flexibility and dignity in fully observing the Sabbath. After the Sabbath Elevator was in place, this greatly improved, as all we needed to do was wait by the elevator until it came to our floor and then we could come and go as we pleased. This greatly enhanced our observance of the Sabbath.

7. The Colony's Board of Directors terminated the Sabbath elevator program in July 2020 with the procedure of a "non-binding" vote. In my sixteen years living at the Colony, I cannot recall there ever being a non-binding vote of the shareholders.

8. After the Board terminated the program, I have contributed to the cost of hiring someone to assist pushing the elevator buttons. But this is not a suitable replacement for either the Sabbath elevator program or the prior staff assistance. Since I remain able, for now, to descend stairs, I attend synagogue, but must return at the specific, pre-arranged time to make use of the hired assistant to go back up to our apartment. My wife cannot attend synagogue due to the difficulty of the current arrangement. We no longer have guests over to visit, have meals with other building residents who live on different floors, leave the apartment for fresh air on long summer Sabbath afternoons, or go to other synagogue or communal events that take place at times other than those designated for prayer services.

9. If a functional Sabbath elevator were restored, my wife and I would be able to once again attend synagogue at the time of our choosing. We would also be able to return to enjoying a host of other activities with friends on the Sabbath. Yet without a Sabbath elevator, my wife and I cannot join in the company of friends and other community members, which has negatively impacted our sense of community and camaraderie.

10. I, therefore, respectfully request that this Court grant Plaintiffs' application for a preliminary injunction.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 18, 2021.


HENRY KATZ